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In this issue ▶▶

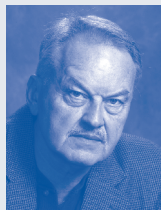
• Insight By Mike Causey	1
• New Travel Charge Card Regulations	1
• E-Government Shows Progress	1
• Consumer-Directed Health Plan Assessed	3
• Bush Drops Fight against Labor Protections	3
• DoD Contractor Incentives Questioned	3
• Sexual Misconduct Continues At Academies	4
• Report Examines DHS Faults	4
• In Brief	4
• Young Feds	5
• Informed Investor	6
• Federal Families	7
• You Be The Judge	8

INSIGHT

BY MIKE CAUSEY

Want Fries with That?

It is difficult, but not impossible, to bite one's self in one's own rear. And nobody has ever done it by accident. At least not the first bite. They have to get out there and try very, very hard. But it can be done.



Folks in certain career fields—I would put lawyers, politicians, journalists, government workers and serial killers at the top of the list—need to be very careful when they make public statements.

Especially when they complain about how tough they have it. About how life hasn't treated them fairly. Or how much better they could have done if they had gone into another line of work.

Whether it is true or not, many, if not most, of that group who try a new career path rarely do better. Except maybe serial killers.

The point is that—right or wrong—the public has a short fuse when public employees, career politicians, journalists or career criminals seek sympathy, especially if they complain about low pay, long hours, the sacrifices they make and the grief they get from the public.

Example: When he left the
continued on page 2

New Travel Charge Card Regulations

The General Services Administration (GSA) issued its new requirements for travel charge cards, covering the issuance and use of charge cards. The new rules are designed to thwart fraud and abuse.

GSA offers travel charge cards under its SmartPay® program, as a convenient way to manage expenses incurred on official government travel. Unfortunately, just as in the wider economy, federal charge cards have had their usefulness threatened by fraud and abuse.


The most striking new requirement under the regulation is that new applicants for federal travel charge cards must prove creditworthiness before being issued a card, in the wake of the Consolidated Appropriations Act (2005).

A GSA Bulletin said a discussion for managers on how to obtain and evaluate credit scores can be found in an appendix to OMB Circular A-123.

The GSA Bulletin cautioned managers to remember that current cardholders are not subject to the creditworthiness requirement.

The new regulation also requires agencies to maintain data and performance metrics on their travel charge card programs. Collecting such information in databases allows managers to assess legal compliance and fraud risk abatement efforts, and also permits government-wide assessments of travel charge card performance.

To see the GSA bulletin, go to www.gsa.gov and search for "FTR Travel/Per Diem Bulletin 05-08." OMB circular A-123, offering specific management

recommendations, is available at www.whitehouse.gov/omb/circulars/a123/a123.html. 

...

E-Government Shows Progress

In an annual report, the Office of Management and Budget (OMB) recently outlined the accomplishments of the E-Government initiative.

"Expanding E-Government," established in 2002, has helped increase federal agencies' savings, customer service and results, according to OMB.

The report found that threshold goals were attained in enterprise architecture, security and business cases during fiscal year 2005. Federal agencies did not attain goals in earned value management and information technology work force.

This past year, OMB (with assistance from the General Services Administration and the Federal Chief Information Officers Council) made progress in developing the Federal Enterprise Architecture (FEA) framework, the OMB report said.

The FEA is a tool in reducing redundancy and improving information shar-
continued on page 3

INSIGHT by Mike Causey

continued from page 1

Department of Homeland Security, former Secretary Tom Ridge—who made more than you and me put together—said he had to leave government for his family. He said he had obligations to make life better for his family. To give his kids a decent education. Like the rest of us don't...?

This after a long career as a politician spending millions of dollars to get into an elective office and a job that only paid in the six figures. But a lot less than what was spent to get the job.

Nobody begrudges the Ridge family a nice house, good food and a decent education. As career politicians go, he was probably better, maybe a long-sight better, than most.

He was a combat-decorated Vietnam veteran when other prominent politicians—Republican vice presidents and Democratic presidents and governors of both parties—had other priorities, which included not getting drafted, even if it meant a side trip to divinity school.

A very famous author, writer of political thrillers—whose work I used to love—lost me when he was interviewed by a local newspaper. He said something to the effect that “anybody who hasn’t earned \$50,000 a year in his life is a failure” or something like that.

This despite the fact that most people then—and this was several years ago—and even now don’t make that kind of money. How did that make them feel? Like losers. By the way, before becoming a famous author, he married the boss’ daughter and took over the company. Which gave him time to write. Now there’s a success story.

Journalists who suffer and emote about themselves make me want to hug the porcelain god. Yet it happens all the time. We demand rules to protect us for doing things other people would go to (and have gone to) jail for doing. This has been going on for decades.

Lawyers! Well, don’t get me started.

Folks in certain career fields, including federal government workers, should be careful when they make public complaints about how tough their jobs are.

One Washington, D.C., lawyer (a former official of the Carter administration) has recently raised his fee to ONE THOUSAND DOLLARS PER HOUR. *The Washington Post* pointed out that while that’s a lot (duh!), it is less than basketball stars and some entertainers make. Oh, okay.

Which brings me to federal workers. The salt of the earth. The folks who hold it all together. A group I have covered a long, long, long time. My mother was a career fed. One of my uncles, after getting out of the Navy, was a rural letter carrier. I can truly say some of my best friends are feds, and mean it.

But feds can blow it too. For example: Thousands of Defense employees, and dozens of facilities, are scheduled to be moved, reinvented or changed if the Base Realignment and Closure (BRAC) Commission recommendations actually go into effect. In most cases, they are years away from happening. Lots could happen before any of it happens.

The Washington, D.C., area is home to the largest—and best paid—concentration of feds in the world. Average salary is just over \$80,000. Unemployment here is lower than in most places of the country. Housing prices are very high, but not the highest.

Financially, this is a good place to be. Especially if one is a long-time fed. Maybe it’s not as good as being an aerospace CEO, or a big-time lobbyist (who can keep out of jail) or a lawyer. But maybe more secure.

But there is a radio spot running, featuring comments from local feds about the BRAC proposals for this area. In one, a man who may, as in MAY, find his job transferred from Arlington, Va., across the Potomac River to Bethesda, Md., laments his fate. He isn’t being sent to Afghanistan. Or being asked to move to Kansas or Montana. He’s being asked to move maybe five, six or seven miles to follow his very well-paying job.

And this is what he’s telling the public. He said, “I’ll flip burgers” in Arlington before I move to Bethesda.

Now I suspect that when it comes down to it he (and his wife) might consider what burger-flipping pays in Arlington vs. what his government job will continue to pay in Bethesda. Most burger-flipping operations don’t do vacations, don’t have 401(k) plans and don’t have benefits.

It’s one thing not to want to move. The traffic would be a bear. But many do it every day now. But what he said demeaned his government job (is it service to your country or location, location, location?).

And, if the only job I could get was flipping burgers, and somebody has to do it, hearing some guy making more in six weeks than I do in a year complain about being inconvenienced wouldn’t sit well with me. In fact, if he ever came to my burger-flipping window, he might get some extra condiments he didn’t ask for.



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continued from page 1

ing. It provides a “common language” that can be used across agencies and at the state and local levels.

The report also highlights a reduced dependency on government funds for the initiative, and a move towards a fee-for-service model. Funding for Expanding E-Government initiatives has decreased from a peak of \$227 million in fiscal year 2004 to \$182 million in 2006.

The full report is available at www.whitehouse.gov/omb/budintegration/expanding_egov_2005.pdf.

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Consumer-Directed Health Plan Assessed

The first consumer-directed health plan (CDHP) available for federal employees—offered by the American Postal Workers Union (APWU)—had mixed results, according to a Government Accountability Office (GAO) study.

A CDHP is a high-deductible health plan coupled with a health care savings account. Funds in the account do not expire, and can be accrued for future use.

GAO said enrollees in CDHP plans were younger than preferred provider organization (PPO) enrollees, with an average age of 47 compared to 62. Among nonelderly enrollees, 73 percent of individuals in CDHP plans reported being in “excellent” or “very good” health, as opposed to 58 percent in PPO plans.

Satisfaction among enrollees in the APWU CDHP was more mixed than other Federal Employees Health Benefits Program (FEHBP) plans. Participants in the APWU CDHP were more satisfied than those in other new FEHBP plans, but less satisfied than PPO participants.

Levels of satisfaction for access to health care, timeliness of health care, provider communication and claims processing were even between enrollees in the CDHP and other plans. On customer service, CDHP plan holders said they were more content than those in



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other new plans, but less pleased than PPO participants.

The full report is available at www.gao.gov/new.items/d06143.pdf.



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Bush Drops Fight against Labor Protections

Department of Defense (DoD) officials can no longer avoid laws intended to protect civilian workers from unfair outsourcing, according to federal employee union officials.

The 2006 Defense Appropriations Act contains a new measure pertaining to outsourcing. On Dec. 30, the administration's fight against federal worker protection—led by the Pentagon and the Office of Management and Budget (OMB)—ended when President Bush signed the \$453 billion bill into law.

From now on, civilian employees should get a fair shake, according to the American Federation of Government Employees (AFGE).

Existing law bans the outsourcing of projects that would ship more than 10 federal job slots to a private contractor without first conducting an outsourcing study. But Defense officials and contractors have been working around the law by breaking jobs up into smaller units, thus skirting the restriction.

The new law will ban such ploys—except when a contractor's bid is at least a 10 percent discount compared with an in-house estimate.

“The new provision will ensure that DoD civilian employees have fair opportunities to compete before their work is given to contractors,” said AFGE officials in a statement.

In a related victory for DoD employees, another piece of the same appropriations law will prohibit private contractors from unfairly comparing their often-cheaper cost basis to that of the Defense Department

in cases where contractors spend less money on employee health care benefits.

“The law ensures that cost comparisons focus on who can do a better job—as opposed to who can better deprive workers of health care benefits,” AFGE officials said.

For more information on the new worker protections, go to www.afge.org.

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DoD Contractor Incentives Questioned

The Department of Defense (DoD) issued approximately \$8 billion in incentives to contractors, regardless of the outcome of the contractors' work, the Government Accountability Office (GAO) said in a report to Congress.

The report added that, in cases where the full award was not paid, more than half of the contractors were given the opportunity to gain “unearned” or “deferred” awards, totaling \$669 million.

GAO noted that contractors were often paid incentives for “average” or “satisfactory” work, when the purpose of the incentives was to encourage excellent performance.

Some contractors receiving incentives were also failing to achieve a key success factor—completion at or below the target price. In about half of the incentive-fee contracts GAO studied, the contractors have (or will) fail to complete the acquisition at or below the target price.

GAO recommendations to DoD included:

- basing awards and incentives on outcomes;
- paying incentives and awards for above-average work; and
- developing an information database to allow for analysis of

continued on page 4

continued from page 3

the incentive-fee effect on performance.

DoD concurred or partially concurred with all of GAO's recommendations. The department did argue that incentives for "satisfactory" work may be justified if such an arrangement was more cost-effective than a cost-plus-fixed-fee contract.

The full report can be found at www.gao.gov/new.items/d0666.pdf.

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Sexual Misconduct Continues At Academies

Surveys conducted at three military service academies and among soldiers in the military reserves show continuing problems with sexual harassment and assault in the military.

The new survey was conducted between June 2004 and April 2005 by the Defense Manpower Data Center (DMDC), a Department of Defense (DoD) unit. The term "sexual assault," according to the survey, covers a range of behaviors including anything from unwanted touching to rape. "Sexual harassment" refers to unwelcome sexual advances or requests for sexual favors accompanied by offers or threats involving the victim's job status.

Cadets at the Army's Military Academy at West Point reported the worst environment for sexual assault, with 6 percent of women alleging they were assaulted, followed by the Naval Academy, with 5 percent. Four percent of female Air Force Academy cadets reported sexual assault. (For men, the rate of reported sexual assault was 1 percent or less at every academy.)

Why did the Air Force Academy, which had the worst record among the academies just three years ago, do better in the new survey than the other two service schools?

"I would assume it's related to the fact that the Air Force began focusing on this issue in 2002," said Dr. Anita Lancaster, assistant director of

the DMDC.

Perhaps. But majorities of men and women surveyed at the Air Force Academy, the Naval Academy and West Point reported that they believed their school's sexual misconduct training courses were ineffective. And at least half of the women attending the service academies reported sexual harassment in the survey.

With approximately one in 20 women at these elite academies assaulted, according to the survey, officials concede much work remains to be done.

On the bright side, military academy and Pentagon spokespersons pointed out that every service academy made some progress. Majorities of both sexes at each school reported that the threat of sexual harassment and assault is diminishing over time. And even at the academy with the worst numbers, West Point, only 6 percent of women reported sexual assault in this year's survey compared with 16 percent in last year's (it covered 1999 to 2003)—a 62 percent drop.

A far larger DoD survey of more than 76,000 military reservists conducted in 2004 reported less frequent assault and harassment of women than the service academy study.

The reservist survey found that 1 percent of men and 2 percent of women suffered sexual assault while on duty, while 3 percent of men and 19 percent of women experienced sexual harassment. Still, majorities in the reserves reported that sexual misconduct was more prevalent in the military workplace than in its civilian counterpart.

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Report Examines DHS Faults

A new congressional report on the Department of Homeland Security (DHS) drew attention to the department's failure to improve border security, despite having spent billions of dollars and almost three years to accomplish that mission.

The report particularly criticized a DHS initiative called One Face at the Border. This initiative requires that every border security worker—including those who previously worked in legacy agencies ranging from Customs and the Border Patrol to the Agriculture Department—be able to carry out high-skill border security jobs.

Congressional critics (as well as others cited in the report) concluded that these jobs cannot be safely assigned to every worker—rather, each task requires specialized skills.

The congressional report noted also that DHS is sticking with older technologies at border points, despite numerous promises to expedite improvements, and in general has been slow to implement change.

The National Treasury Employees Union (NTEU) was quick to leap on the report as evidence of wider problems at DHS.

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In Brief

White Collar Crimes Cost

Federal employees and Congress members who are convicted of white collar crimes would forfeit their retirement benefits if the Public Trust and Accountability Act is passed by Congress and signed into law. The bill, introduced by Rep. Lee Terry, R-Neb., would amend Title 5 of the U.S. Code to strip government employees of their retirement benefits if convicted of laws that violate the public trust or fiduciary duties. That would include bribery, embezzlement and perjury. Currently, Title 5 only denies benefits to individuals convicted of violating national security laws, such as treason.

TSP Participation Grows

Participation in the Thrift Savings Plan (TSP) reached an all-time high in November 2005, the Federal Retirement Thrift Investment Board (FRTIB) announced at a Dec. 19 meeting to review TSP activity. Participation

continued on page 5

DoD Gets SMART to Improve Recruiting

To improve recruiting in the high-need areas of science, mathematics and engineering (SME), the Department of Defense (DoD) will be offering the Science, Mathematics and Research for Transformation (SMART) program, awarding scholarships to students pursuing SME college degrees.

SMART was established as a pilot program through the fiscal year 2005 Defense Authorization Act. The 2006 version of the act—which was recently signed into law—includes provisions to put \$3.75 billion toward SMART scholarships and grants over the next five years.

SME disciplines eligible for the SMART scholarship include:

- aeronautical and aerospace engineering;
- biosciences;
- chemical engineering;
- chemistry;
- civil engineering;
- psychology; and
- computer and computational sciences.

Subject to the availability of funds, the SMART scholarship pays full tuition, fees, room and board and up to \$1,000 for books.

To be eligible for the SMART scholarship, students must be at least 18, enrolled in an accredited university or college, citizens of the U.S., and have a minimum 3.0 average on a 4.0 scale. Students selected in spring 2006 must begin their scholarship tenure no later than fall 2006.

In addition, scholarship students will serve as temporary DoD employees and receive an annual salary ranging from

\$20,000 to \$40,000.

Participating students will serve as interns at DoD agencies or laboratories during the summer, or find an applicable, approved alternative position.

While in the scholarship program, students may participate in nonpaying teaching or research positions, provided that they are approved by a SMART executive agent, and the experience is contributing to the student's education and credits. SMART agents may also monitor the student's progress to ensure they are progressing toward the SME degree.

Upon graduating, the student would enter the DoD work force. SMART participants must be geographically mobile, as local job placement is not guaranteed.

Students in the SMART scholarship program have a one-for-one commitment—for every year in the program, the student must complete one year of DoD employment. Also, DoD will annually review the student's progress as a DoD employee—through a survey—for 10 years.

Those who do not complete the program and employment requirements may have to reimburse DoD for funds and expenses.

Selections will be made by a panel of DoD-approved scientists and engineers. Recipients will be notified in late April 2006. For additional eligibility information or to apply online, go to www.asee.org/resources/fellowships/smart/index.cfm

For a link to previous Young Feds columns, please visit FEND's Web site at www.FederalDaily.com/YoungFeds.

continued from page 4

increased by 184,000 from last year, to more than 3.5 million people. FRTIB also decreased administrative costs to .05 percent (or \$50 per every \$1,000 of each account balance), compared to .06 percent during 2004. In other TSP news, since August, 192,000 participants began using the Lifecycle (L) Fund (which automatically invests TSP funds based on an individual's projected retirement date), with assets reaching \$6.8 billion. FRTIB also announced its intention to eliminate internal limits on TSP contributions in 2006, deferring to the Internal Revenue Code limit of \$15,000.

USPS Eliminates Debt

The U.S. Postal Service (USPS) ended 2005 with its sixth consecutive year of

growth in productivity and eliminated its debts, according to the service's 2005 annual report. Operating revenue increased to \$69.9 billion, up from \$68.9 billion in 2004. USPS debt, which stood at more than \$7 billion in 2003, is now at zero. USPS delivered mail to 32 million more homes and businesses than it did in 1985 with the same staffing levels. Postmaster General John E. Potter and Board of Governors Chairman James C. Miller III said, "This reflects the strong efforts throughout the entire organization to remain focused on the transformational strategies we identified in 2002." The financial report can be found at www.usps.com/history/anrpt05/.

Soldiers Admit Detainee Abuse

Court-martial proceedings completed last month resulted in five enlisted U.S. soldiers from the 75th Ranger Regiment pleading guilty to charges of detainee abuse and violations of the Uniform Code of Military Justice (UCMJ). The courts-martial resulted in the following:

- all five soldiers pleaded guilty to violating UCMJ Article 92, Dereliction in the Performance of Duties;
- four of the five soldiers pleaded guilty to violating UCMJ Article 128, Assault Consummated by a Battery; and
- two soldiers pleaded guilty to violating UCMJ Article 93, Maltreatment.

Punishments included 30 day- to six month-confinement and reduction in rank. Two of the soldiers received a "Bad Conduct Discharge."

Checking Credit Reports and Scores

Credit reports and scores are growing in importance as more businesses use them for a variety of reasons. For example, during 2005, State Farm Insurance Company became the latest property casualty insurance company that uses a "credit scoring" model to determine premium rates for new automobile policyholders.

Businesses are also using credit checks to harness the "predictive power" of the data behind an individual's credit score. For example, cell phone companies have found that credit scores can be useful as predictors of which cell phone account holders are most likely to fall behind on their cell phone monthly payments.

What is a credit score and how is it computed? An individual's credit score is essentially a snapshot of the individual's credit worthiness at a particular time. Fair Isaac Corporation (located in California) created the most widely used credit score known as the FICO score. The FICO score ranges from a low of 300 (worst possible credit history) to a high of 850 (perfect credit history).

Fair Isaac Corporation uses 22 types of data collected from the three major credit bureaus (Equifax, Experian and TransUnion) to calculate the credit score. The score is a composite from individual ratings in the following five categories.

1. Bill payment history (35 percent). Paying credit card bills and loans on time will result in higher FICO scores; missing payments or submitting the "minimum" each month will lower scores.

2. "Credit utilization" ratio (30 percent). Credit utilization refers to the credit balance to the credit limit ratio on credit card accounts (or the percentage of available credit being used for each card). Another term for the credit utilization level is "amounts owed." Maxing out credit cards will result in lowering one's FICO score; simply using 50 percent or more of credit limits can also cause problems. It is better if an individual has smaller balances (lower percentages) on several credit cards rather than piling up huge balances on one card.

3. Length of credit history (15 percent). It is a good idea to build up a lengthy credit use ("pay on time") credit history.

4. New accounts (10 percent). Consistently applying for new lines of credit raises "red flags" because it makes the consumer look riskier. It is therefore a good idea to avoid the home equity "lines of credit" or store retailer cards.

5. Types of credit (10 percent). Consumers get credit for owning a variety of loans, including auto loans or mort-



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gages compared to owning only credit cards.

Note that an individual's income is not a factor in determining his or her FICO score. An individual may have a high income, but that does not mean that he or she pays credit card bills on time.

To see what effect on interest rates a lower or higher FICO score has, consider the following example (from Inform Research Services, Inc.) of a \$350,000 mortgage and varying interest rates.

Note the varying interest rates and resulting monthly payment (principal and interest) amounts depend on the FICO score range.

Mortgage rates on a \$350,000 mortgage

Fico Score	Annual Percentage Rate*	Monthly Payment	Total Interest
720-850	6.24%	\$2,153	\$424,984
700-719	6.37	2,181	435,252
675-699	6.90	2,306	480,005
620-674	8.05	2,581	579,115
560-619	8.53	2,699	621,601
500-559	9.29	2,889	690,134

*Rates as of Nov. 11 Data: Informa Research, Inc. myfico.com

What should individuals do to check their credit scores? Here are some suggestions. (Note that in the case of a married couple, each spouse should check both his and her credit reports and credit scores.)

Check credit reports from the three major credit reporting agencies. As the FICO score is based on information in credit reports, it is important for individuals to check their reports to make sure they are complete. Credit reports can sometimes contain errors. The Fair and Accurate Transaction Act of 2003 entitles every individual to a free credit report from each of their major credit reporting agencies once a year. Reports can be ordered online at www.annualcreditreport.com.

Obtain FICO credit scores. To do this, one should go to www.myfico.com. A score from one of the major credit reporting agencies will cost \$14.95; scores from all three credit reporting agencies will cost \$44.85. It is advisable to purchase FICO scores from all three credit bureaus because large lenders either average the three credit scores or take the middle score.

New Basic Housing Allowance Policy

Department of Defense (DoD) officials have announced that, starting this month, the geographic rate protection clause—which ensures that servicemembers moving to a new area receive the same basic housing allowance (BAH) rate as those already in the area—will be abolished. DoD stressed that no one would sustain a reduction to his or her current allowance.

Geographic rate protection ensured that military members moving to a particular region received the same BAH as their equal pay grades. Now they will receive the set BAH allowance for that fiscal year, even if that figure is lower than what servicemembers already living in the region receive.

In addition, servicemembers have individual rate protection, which ensures that a military member living in a particular area will not have his or her BAH reduced, even if the average housing costs of the area decline.

The individual rate protection will not be affected by the rule change—as long as the servicemember stays in the same geographic area, the allowance will not be reduced.

Geographic rate protection was established in 2000 to ensure that like-pay grades received similar housing compensation, and to ensure that military members did not have to suffer out-of-pocket expenses to obtain standard housing.

Col. Virginia Penrod, DoD director of military compensation, noted that the housing rates had reached a level where servicemembers were no longer susceptible to out-of-pocket expenses for housing.

“It was a short-term program,” she said. “We always had in our minds that we would eliminate the protection once the out-of-pocket (expenses) went to zero.”

Col. Penrod added, “We’re adjusting rates to where they should be.”

BAH allowances are reviewed each year. They are set at average housing costs for the geographic area and adjusted based on individual pay grades.

GSA Offers Child Care Services

Many federal employees can obtain child care services from the General Services Administration (GSA), which rents federal building space for child care centers in 110 locations throughout 31 different states.

GSA’s child care program was authorized by Title 40 of the United States Code and the Tribble Amendment. The amendment requires that at least 50 percent of the children enrolled in GSA centers are dependents of federal employees—federal workers are also given priority access to services.



John Buhl
spent time as a federal employee and government consultant prior to joining FEND in October 2005. His father works for the Department of the Navy and his mother works for the IRS.

GSA requires that all facilities receive accreditation from the National Academy of Early Childhood Programs. Each facility undergoes a site visit and inspection of the following categories to receive accreditation:

- appropriate interactions among teachers and children;
- developmental curriculum;
- communication among teachers and families;
- professional administration;
- professional development for staff;
- stable staffing;
- clean, well-designed physical environment;

- proper attention to health and safety;
- good nutrition and food services; and
- established procedures to evaluate the program.

GSA also conducts surveys of federal employees to estimate the space needed for each facility and what age groups will make up the demographics. A center will be set up if there is sufficient need, agency support and available space.

The selected child care provider is responsible for the actual care and development program and marketing.

Each center has a board of directors, which deals with e-mail, employee newsletters and liability insurance. The board also hires and trains staff, sets tuition rates and collects tuition payments.

Federal agencies can contribute in several ways. First, the agency pays “rent” for the child care space. The Tribble Amendment outlines what type of supplies agencies can supply—acceptable items include phones lines and office equipment.

Second, agencies can also authorize official time for employees to serve on the board of directors and assist in marketing or fundraising efforts.

Public Law 106-58, the Treasury and General Government Appropriations Act for FY 2000, authorizes agencies to use appropriated funds to pay child care costs for lower income federal families. The Office of Personnel Management sets the guidelines for using appropriated funds for child care costs.

GSA also requires that each board or center has a tuition assistance program to help lower income families pay for care.

More than one agency can sponsor a center, provided that a memorandum of understanding (MOU) is signed. The MOU must outline how the child care center will be supported and establish priorities for board membership and enrollment.

For more information, search for “child care centers” at www.gsa.gov. The site lists available contacts, resources and GSA child care center locations.

Newbie Status for a Transferred Employee?

They not only fired me, they denied me the right of appeal after I worked 18 years as a salaried employee of the federal government,” said Karen Blevins, in a state of shock after her dismissal. “Just because I’d switched to a new job at a different agency, they said they could treat me like a probationary employee—outrageous!”

“The fact is, if you take a job and can’t do it properly, you shouldn’t be allowed to keep it,” her last supervisor said. “And if you sign a document, as Ms. Blevins did, accepting your status as a probationary employee, by federal rules you lose the right to appeal your dismissal.”

“But I worked for almost two decades at the Department of Agriculture before switching to the IRS. I’m no new federal employee!” Blevins protested. “Besides, I only signed the ‘probationary employee’ acceptance form *after* I’d begun working at my new job—I was hoodwinked.”

*Should Blevins have been able to appeal her firing?

FACTS: The IRS fired Blevins soon after she took a job with the agency, allegedly for “failing critical elements of her position,” failing to pay off her government credit card on time and going absent without leave.

Despite having been advised she had no right of appeal, Blevins appealed to an administrative judge who advised her that to proceed, she must first prove she had the right to appeal.

Blevins argued that because she had worked for the Department of Agriculture for many years before switching to the IRS, she was a full-time, non-probationary federal employee.

She further argued that when she signed the “Notification of Probationary Period” document, she had no legal representative, no union negotiator and was pressured to sign it—therefore, the document was invalid. Finally, she reiterated that her firing was unjust, and she was entitled to an appeal.

The judge concurred with Blevins that, according to legal precedent, she had grounds to claim full rights of appeal as a full-time, nonprobationary employee. But Blevins had given up those rights when she signed the form, the judge said. Blevins appealed to the Merit Systems Protection Board (MSPB).

DECISION: Federal law holds that only “continuous” employees—those who have worked more than one year straight in a “nontemporary” position for the federal government—have full rights of appeal to the MSPB.

Office of Personnel Management rules permit employees to change jobs and agencies while maintaining “continuous employment” status, but there must be no time out, no break in employment with the federal government.

Blevins voluntarily left her job with the Department of Agriculture and started her job at the IRS, transitioning over a single weekend, so the MSPB ruled she qualified as a “continuous employee” with full rights of appeal. There had been no break in her employment with the federal government.

Further, the MSPB found merit in the substance of the appeal, disagreeing with the administrative judge on the validity of the probationary employee form. Blevins had been asked to sign the waiver of her rights only *after* starting her new job, which means she could not fruitfully negotiate the act of giving up her rights.

These last facts were critical. In a recent case, *Hughes vs. Social Security Administration* (2005), the MSPB had ruled that probationary employee agreement forms were not valid when signed after a new job begins and when no compensation is offered in exchange for the signature.

Firing a federal employee, or taking any other action against the employee, must be followed up with providing the employee an opportunity for response and appeal, according to the MSPB. Failure to do so may constitute a denial of “minimum due process of law,” and, as held by precedent, may violate a government employee’s constitutional rights. (*Cleveland Board of Education vs. Lauderhill*, 1985)

Therefore, MSPB ruled, Blevins’ signature on the waiver form was invalid and Blevins may have been denied her right to minimum due process. MSPB remanded the case back to the administrative judge for reevaluation and a possible hearing.

(*Thompson vs. Treasury*, MSPB, No. DC-315H-04-0523-I-1)

**Names and dialogue are fictitious, but details are based on a real case.*

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